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Draft report of the International Law Commission on the work of its seventieth session

Rapporteur: Ms. Patrícia **Galvão Teles**

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Chapter I
Introduction

1. The International Law Commission held the first part of its seventieth session from 30 April to 1 June 2018 in New York and the second part from 2 July to 10 August 2018 at its seat at the United Nations Office at Geneva. The session was opened by Mr. Georg Nolte, Chair of the sixty-ninth session of the Commission.

A. Membership

2. The Commission consists of the following members:

Mr. Ali Mohsen Fetais Al-Marri (Qatar)

Mr. Carlos J. Argüello Gómez (Nicaragua)

Mr. Bogdan Aurescu (Romania)

Mr. Yacouba Cissé (Côte d'Ivoire)

Ms. Concepción Escobar Hernández (Spain)

Ms. Patrícia Galvão Teles (Portugal)

Mr. Juan Manuel Gómez Robledo (Mexico)

Mr. Claudio Grossman Guiloff (Chile)

Mr. Hussein A. Hassouna (Egypt)

Mr. Mahmoud D. Hmoud (Jordan)

Mr. Huikang Huang (China)

Mr. Charles Chernor Jalloh (Sierra Leone)

Mr. Ahmed Laraba (Algeria)

Ms. Marja Lehto (Finland)

Mr. Shinya Murase (Japan)

Mr. Sean D. Murphy (United States of America)

Mr. Hong Thao Nguyen (Viet Nam)

Mr. Georg Nolte (Germany)

Ms. Nilüfer Oral (Turkey)

Mr. Hassan Ouazzani Chahdi (Morocco)

Mr. Ki Gab Park (Republic of Korea)

Mr. Chris Maina Peter (United Republic of Tanzania)

Mr. Ernest Petrič (Slovenia)

Mr. Aniruddha Rajput (India)

Mr. August Reinisch (Austria)

Mr. Juan José Ruda Santolaria (Peru)

Mr. Gilberto Vergne Saboia (Brazil)

Mr. Pavel Šturma (Czech Republic)

Mr. Dire D. Tladi (SouthAfrica)

Mr. Eduardo Valencia-Ospina (Colombia)

Mr. Marcelo Vázquez-Bermúdez (Ecuador)

Mr. Amos S. Wako (Kenya)

Sir Michael Wood (United Kingdom of Great Britain and Northern Ireland)

Mr. Evgeny Zagaynov (Russian Federation)

B. Casual vacancy

3. At its 3391st on 1 May 2018, the Commission elected Mr. Evgeny Zagaynov (Russian Federation) to fill the casual vacancy occasioned by the resignation of Mr. Roman A. Kolodkin.

C. Officers and the Enlarged Bureau

4. At its 3390th meeting, on 30 April 2018, the Commission elected the following officers:

Chair:	Mr. Eduardo Valencia-Ospina (Colombia)
First Vice-Chair:	Mr. Pavel Šturma (Czech Republic)
Second Vice-Chair:	Mr. Hong Thao Nguyen (Viet Nam)
Chair of the Drafting Committee:	Mr. Charles Chernor Jalloh (Sierra Leone)
Rapporteur:	Ms. Patrícia Galvão Teles (Portugal)

5. The Enlarged Bureau of the Commission was composed of the officers of the present session, the previous Chair of the Commission[1] and the Special Rapporteurs.[2]

6. At its 3390th meeting on 30 April 2018, the Commission set up a Planning Group composed of the following members: Mr. Pavel Šturma (Chair), Mr. Yacouba Cissé, Ms. Concepción Escobar Hernández, Mr. Juan Manuel Gómez Robledo, Mr. Claudio Grossman Guiloff, Mr. Hussein A. Hassouna, Mr. Mahmoud D. Hmoud, Mr. Huikang Huang, Mr. Charles Chernor Jalloh, Ms. Marja Lehto, Mr. Shinya Murase, Mr. Sean D. Murphy, Mr. Hong Thao Nguyen, Mr. Georg Nolte, Ms. Nilüfer Oral, Mr. Hassan Ouazzani Chahdi, Mr. Ki Gab Park, Mr. Ernest Petrič, Mr. Aniruddha Rajput, Mr. August Reinisch, Mr. Juan José Ruda Santolaria, Mr. Gilberto Vergne Saboia, Mr. Dire D. Tladi, Mr. Eduardo Valencia-Ospina, Mr. Marcelo Vázquez-Bermúdez, Sir Michael Wood, Mr. Evgeny Zagaynov and Ms. Patrícia Galvão Teles (*ex officio*).

D. Drafting Committee

7. At its 3391st, 3395th, 3401st, 3409th, 3413th, 3431st and 3435th meetings, on 1, 4, 11, 22 and 29 May and on 17 and 24 July 2018, the Commission established a Drafting Committee, composed of the following members for the topics indicated:

(a) *Peremptory norms of general international law (jus cogens)*: Mr. Charles Chernor Jalloh (Chair), Mr. Dire D. Tladi (Special Rapporteur), Mr. Carlos J. Argüello Gómez, Mr. Yacouba Cissé, Ms. Concepción Escobar Hernández, Mr. Juan Manuel Gómez Robledo, Mr. Claudio Grossman Guiloff, Mr. Mahmoud D. Hmoud, Mr. Huikang Huang, Ms. Marja Lehto, Mr. Shinya Murase, Mr. Sean D. Murphy, Mr. Georg Nolte, Mr. Hong Thao Nguyen, Ms. Nilüfer Oral, Mr. Hassan Ouazzani Chahdi, Mr. Ki Gab Park, Mr. Ernest Petrič, Mr. Aniruddha Rajput, Mr. August Reinisch, Mr. Juan José Ruda Santolaria,

[1] Mr. Georg Nolte, Mr. Ernest Petrič.

[2] Ms. Concepción Escobar Hernández, Mr. Juan Manuel Gómez Robledo, Ms. Marja Lehto, Mr. Shinya Murase, Mr. Sean D. Murphy, Mr. Georg Nolte, Mr. Pavel Šturma, Mr. Dire D. Tladi and Sir Michael Wood.

Mr. Gilberto Vergne Saboia, Mr. Pavel Šturma, Mr. Marcelo Vázquez-Bermúdez, Sir Michael Wood, Mr. Evgeny Zagaynov and Ms. Patrícia Galvão Teles (*ex officio*).

(b) *Subsequent agreements and subsequent practice in relation to the interpretation of treaties*: Mr. Charles Chernor Jalloh (Chair), Mr. Georg Nolte (Special Rapporteur), Mr. Bogdan Aurescu, Mr. Yacouba Cissé, Mr. Juan Manuel Gómez Robledo, Mr. Claudio Grossman Guiloff, Mr. Mahmoud D. Hmoud, Mr. Shinya Murase, Mr. Sean D. Murphy, Mr. Hong Thao Nguyen, Mr. Hassan Ouazzani Chahdi, Mr. Ki Gab Park, Mr. Aniruddha Rajput, Mr. August Reinisch, Mr. Juan José Ruda Santolaria, Mr. Pavel Šturma, Mr. Dire D. Tladi, Mr. Marcelo Vázquez-Bermúdez, Sir Michael Wood and Ms. Patrícia Galvão Teles (*ex officio*).

(c) *Identification of customary international law*: Mr. Charles Chernor Jalloh (Chair), Sir Michael Wood (Special Rapporteur), Mr. Carlos J. Argüello Gómez, Mr. Bogdan Aurescu, Mr. Juan Manuel Gómez Robledo, Mr. Claudio Grossman Guiloff, Mr. Mahmoud D. Hmoud, Mr. Huikang Huang, Ms. Marja Lehto, Mr. Shinya Murase, Mr. Sean D. Murphy, Mr. Hong Thao Nguyen, Mr. Georg Nolte, Ms. Nilüfer Oral, Mr. Ki Gab Park, Mr. Aniruddha Rajput, Mr. August Reinisch, Mr. Juan José Ruda Santolaria, Mr. Gilberto Vergne Saboia, Mr. Dire D. Tladi, Mr. Marcelo Vázquez-Bermúdez and Ms. Patrícia Galvão Teles (*ex officio*).

(d) *Provisional application of treaties*: Mr. Charles Chernor Jalloh (Chair), Mr. Juan Manuel Gómez Robledo (Special Rapporteur), Mr. Carlos J. Argüello Gómez, Mr. Bogdan Aurescu, Mr. Yacouba Cissé, Ms. Concepción Escobar Hernández, Mr. Claudio Grossman Guiloff, Mr. Huikang Huang, Ms. Marja Lehto, Mr. Sean D. Murphy, Mr. Hassan Ouazzani Chahdi, Mr. Ki Gab Park, Mr. Aniruddha Rajput, Mr. August Reinisch, Mr. Juan José Ruda Santolaria, Mr. Pavel Šturma, Mr. Marcelo Vázquez-Bermúdez, Sir Michael Wood, Mr. Evgeny Zagaynov and Ms. Patrícia Galvão Teles (*ex officio*).

(e) *Protection of the atmosphere*: Mr. Charles Chernor Jalloh (Chair), Mr. Shinya Murase (Special Rapporteur), Mr. Bogdan Aurescu, Mr. Claudio Grossman Guiloff, Mr. Huikang Huang, Ms. Marja Lehto, Mr. Sean D. Murphy, Mr. Hong Thao Nguyen, Mr. Georg Nolte, Ms. Nilüfer Oral, Mr. Ki Gab Park, Mr. Aniruddha Rajput, Mr. August Reinisch, Mr. Juan José Ruda Santolaria, Mr. Marcelo Vázquez-Bermúdez, Sir Michael Wood and Ms. Patrícia Galvão Teles (*ex officio*).

(f) *Protection of the environment in relation to armed conflicts*: Mr. Charles Chernor Jalloh (Chair), Ms. Marja Lehto, (Special Rapporteur), Mr. Bogdan Aurescu, Mr. Yacouba Cissé, Ms. Concepción Escobar Hernández, Mr. Juan Manuel Gómez Robledo, Mr. Claudio Grossman Guiloff, Mr. Mahmoud D. Hmoud, Mr. Huikang Huang, Mr. Shinya Murase, Mr. Sean D. Murphy, Mr. Hong Thao Nguyen, Ms. Nilüfer Oral, Mr. Ki Gab Park, Mr. Aniruddha Rajput, Mr. Juan José Ruda Santolaria, Mr. Gilberto Vergne Saboia, Sir Michael Wood and Ms. Patrícia Galvão Teles (*ex officio*).

(g) *Succession of States in respect of State responsibility*: Mr. Charles Chernor Jalloh (Chair), Mr. Pavel Šturma (Special Rapporteur), Mr. Carlos J. Argüello Gómez, Mr. Bogdan Aurescu, Ms. Concepción Escobar Hernández, Mr. Claudio Grossman Guiloff, Mr. Sean D. Murphy, Mr. Georg Nolte, Ms. Nilüfer Oral, Mr. Ki Gab Park, Mr. Ernest Petrič, Mr. Aniruddha Rajput, Mr. August Reinisch, Mr. Juan José Ruda Santolaria, Sir Michael Wood, Mr. Evgeny Zagaynov and Ms. Patrícia Galvão Teles (*ex officio*).

8. The Drafting Committee held a total of 32 meetings on the seven topics indicated above.

E. Working Groups

9. At its 3394th meeting, on 3 May 2018, the Commission established a Working Group on protection of the environment in relation to armed conflicts: Mr. Marcelo Vázquez-Bermúdez (Chair), Ms. Marja Lehto (Special Rapporteur), Mr. Yacouba Cissé, Mr. Claudio Grossman Guiloff, Mr. Mahmoud D. Hmoud, Mr. Charles Chernor Jalloh, Mr. Shinya Murase, Mr. Sean D. Murphy, Mr. Hong Thao Nguyen, Ms. Nilüfer Oral, Mr.

Hassan Ouazzani Chahdi, Mr. Aniruddha Rajput, Mr. Juan José Ruda Santolaria, Mr. Gilberto Vergne Saboia, Sir Michael Wood and Ms. Patrícia Galvão Teles (*ex officio*).

10. At its 3404th meeting, on 16 May 2018, the Commission established a Working Group on identification of customary international law: Mr. Marcelo Vázquez-Bermúdez (Chair), Sir Michael Wood (Special Rapporteur), Mr. Carlos J. Argüello Gómez, Mr. Yacouba Cissé, Mr. Claudio Grossman Guiloff, Mr. Huikang Huang, Mr. Charles Chernor Jalloh, Ms. Marja Lehto, Mr. Shinya Murase, Mr. Sean D. Murphy, Mr. Georg Nolte, Ms. Nilüfer Oral, Mr. Hassan Ouazzani Chahdi, Mr. Ki Gab Park, Mr. Aniruddha Rajput, Mr. August Reinisch, Mr. Juan José Ruda Santolaria, Mr. Gilberto Vergne Saboia and Ms. Patrícia Galvão Teles (*ex officio*).

11. The Planning Group established the following Working Groups:

(a) *Working Group on the long-term programme of work*: Mr. Mahmoud D. Hmoud (Chair), Mr. Bogdan Aurescu, Mr. Yacouba Cissé, Ms. Concepción Escobar Hernández, Mr. Juan Manuel Gómez Robledo, Mr. Claudio Grossman Guiloff, Mr. Hussein A. Hassouna, Mr. Huikang Huang, Mr. Charles Chernor Jalloh, Ms. Marja Lehto, Mr. Shinya Murase, Mr. Sean D. Murphy, Mr. Hong Thao Nguyen, Ms. Nilüfer Oral, Mr. Hassan Ouazzani Chahdi, Mr. Ki Gab Park, Mr. Chris Maina Peter, Mr. Aniruddha Rajput, Mr. August Reinisch, Mr. Juan José Ruda Santolaria, Mr. Gilberto Vergne Saboia, Mr. Pavel Šturma, Mr. Dire D. Tladi, Mr. Marcelo Vázquez-Bermúdez, Mr. Amos S. Wako, Sir Michael Wood, Mr. Evgeny Zagaynov and Ms. Patrícia Galvão Teles (*ex officio*).

(b) *Working Group on methods of work*: Mr. Hussein A. Hassouna (Chair), Mr. Bogdan Aurescu, Mr. Yacouba Cissé, Ms. Concepción Escobar Hernández, Mr. Claudio Grossman Guiloff, Mr. Huikang Huang, Mr. Charles Chernor Jalloh, Ms. Marja Lehto, Mr. Shinya Murase, Mr. Sean D. Murphy, Mr. Hong Thao Nguyen, Mr Georg Nolte, Ms. Nilüfer Oral, Mr. Hassan Ouazzani Chahdi, Mr. Ki Gab Park, Mr. Ernest Petrič, Mr. Aniruddha Rajput, Mr. August Reinisch, Mr. Juan José Ruda Santolaria, Mr. Gilberto Vergne Saboia, Mr. Pavel Šturma, Mr. Dire D. Tladi, Marcelo Vázquez-Bermúdez, Mr. Sir Michael Wood, Mr. Evgeny Zagaynov and Ms. Patrícia Galvão Teles (*ex officio*).

F. Secretariat

12. Mr. Miguel de Serpa Soares, Under-Secretary-General for Legal Affairs and United Nations Legal Counsel, represented the Secretary-General. Mr. Huw Llewellyn, Director of the Codification Division of the Office of Legal Affairs, acted as Secretary to the Commission and, in the absence of the Legal Counsel, represented the Secretary-General. Mr. Arnold Pronto and Ms. Jessica Elbaz, Principal Legal Officers, served as Principal Assistant Secretaries to the Commission. Mr. Trevor Chimimba, Senior Legal Officer, served as Senior Assistant Secretary to the Commission. Mr. Francesco Messineo and Mr. David Nanopoulos, Legal Officers, and Ms. Christiane Ahlborn and Mr. Bart Smit Duijzentkunst, Associate Legal Officers, served as Assistant Secretaries to the Commission.

G. Agenda

13. At its 3390th meeting, on 30 April 2018, the Commission adopted an agenda for its seventieth session consisting of the following items:

1. Organization of the work of the session.
2. Filling of casual vacancies.
3. Immunity of State officials from foreign criminal jurisdiction.
4. Subsequent agreements and subsequent practice in relation to the interpretation of treaties.
5. Provisional application of treaties.
6. Identification of customary international law.

7. Protection of the environment in relation to armed conflicts.
8. Protection of the atmosphere.
9. Peremptory norms of general international law (*jus cogens*).
10. Succession of States in respect of State responsibility.
11. Commemoration of the seventieth anniversary of the Commission.
12. Programme, procedures and working methods of the Commission and its documentation.
13. Date and place of the seventy-first session.
14. Cooperation with other bodies.
15. Other business.